

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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|---------------------------|---|---------------------------------|
| IRONCLAD PERFORMANCE WEAR | § | |
| CORPORATION, | § | |
| | § | |
| Plaintiff, | § | |
| | § | Civil Action No. 3:15-CV-3453-D |
| VS. | § | |
| | § | |
| ORR SAFETY CORPORATION, | § | |
| | § | |
| Defendant. | § | |

ORDER

On February 19, 2016 defendant filed a motion for temporary restraining order/preliminary injunction and motion for expedited evidentiary hearing. Pursuant to Fed. R. Civ. P. 43(c), the court will decide the motion for a preliminary injunction on the basis of affidavits, declarations, deposition excerpts, and/or exhibits. *See, e.g., FSLIC v. Dixon*, 835 F.2d 554, 558-59 (5th Cir. 1987); *E. E. Maxwell Co. v. Arti Decor, Ltd.*, 638 F. Supp. 749, 751 n.3 (N.D. Tex. 1986). The court will convene an evidentiary hearing only if necessary to resolve a controlling fact issue that involves a determination of witness credibility. Defendant's motion for expedited evidentiary hearing is denied. This order governs the timing and content of the required submissions. If the court later grants a temporary restraining order, these deadlines may be modified.

I

Defendant must file its supporting materials and a separate brief. Until these documents are filed, the court will not calendar the motion internally for decision, and no opposing party need respond.

The brief must comply with local civil rule 7.2, except that the page limit of LR 7.2(c) is hereby enlarged to 50 pages. Supporting materials must be set out in an appendix, in the form

prescribed by § IV of this order. The brief must include citations to each page of the appendix that supports each assertion made concerning the evidence.

The appendix and brief must be served on all parties entitled to such service no later than the calendar day (including Saturdays and legal holidays) that follows the date they are filed with the clerk of court.

II

Plaintiff must file its opposition materials, and a separate brief, within 21 days of the date the documents required in § I are filed with the clerk of court.

The brief must comply with local civil rule 7.2, except that the page limit of LR 7.2(c) is hereby enlarged to 50 pages. Opposition materials must be set forth in an appendix, in the form prescribed by § IV of this order. The brief must include citations to each page of the appendix that supports each assertion made concerning the evidence.

The appendix and brief must be served on all parties entitled to such service no later than the calendar day (including Saturdays and legal holidays) that follows the date they are filed with the clerk of court.

III

Defendant may file a reply brief, but not additional evidence, within 14 days of the date the documents required by § II of this order are filed with the clerk of court. The brief must comply with local civil rule 7.2, except that the page limit of LR 7.2(c) is hereby enlarged to 25 pages.

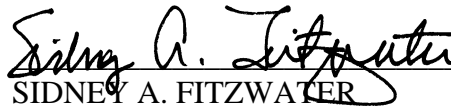
IV

Evidentiary materials must be set out in an appendix that meets the following requirements:
(A) The appendix must be assembled as a self-contained document, separate from the brief. (B)

Each page of the appendix must measure 8½ x 11 inches. Non-documentary exhibits (*e.g.*, videotapes and other physical exhibits) and oversized exhibits (*e.g.*, maps and schematic drawings) that are included in the appendix must be placed in an envelope that measures 9 x 12 inches. (C) Each page of the appendix must be numbered legibly in the lower, right-hand corner. The first page must be numbered as “1,” and succeeding pages must be numbered sequentially through the last page of the entire appendix (*i.e.*, the numbering system must not re-start with each succeeding document in the appendix). An envelope that contains a non-documentary or oversized exhibit must be numbered as if it were a single page.

SO ORDERED.

February 19, 2016.


SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE